

APPEAL NO. 010799

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 21, 2001. The hearing officer determined that the respondent (claimant) had disability from June 27, 2000, through January 8, 2001.

The appellant (carrier) has appealed on sufficiency grounds. The claimant responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable right knee burn injury on _____, when he knelt down on a hot steel plate. As a result of the injury, the claimant underwent a skin graft in May of 1999. The medical records reflect that in September of 1999, the skin graft had healed. However, subsequent medical records dated in October of 1999, reveal that the knee graft was re-opened when the claimant stretched the grafted skin by kneeling. It is unclear what transpired between September/October of 1999, and June 27, 2000. The claimant was laid off work on January 25, 2000, and began treating with Dr. J, who took him off work. The claimant was sent to Dr. R for a Texas Workers' Compensation Commission Required Medical Examination on December 18, 2000. Dr. R released the claimant to light-duty work on January 8, 2001.

The medical evidence is conflicting and subject to different interpretations. The determination as to if, and for what period, the claimant had disability is a question of fact for the hearing officer to resolve. Although Dr. R's assessment released the claimant to light-duty work, the hearing officer determined that disability ended on that date. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

Accordingly, the hearing officer's decision and order are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge